IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2300 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LIMBABHAI SAWABHAI

Versus

ADDITIONAL SECRETARY

Appearance:

1. Special Civil Application No. 2300 of 1992

MR PH PATHAK for Petitioner No. 1-2

MR ND GOHIL A.G.P. for Respondent No. 1-3

MR ND NANAVATI for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 03/09/2004

ORAL JUDGEMENT

1.0. The petitioners by way of this petition have claimed that they should be granted the benefits of

Government Resolution dated 17th October, 1988.

2.0. I have gone through the record of this petition. It appears that this Court [Coram : B.J. Shethna, J.] on 17th August, 1994, had passed the following order :-

> "Heard Shri Pathak learned advocate for the petitioner and Shri K.C. Shah learned A.G.P. for the respondents.
> RULE. Ad-interim relief granted earlier to continue."

2.1. Further, cognate matter being Special Civil Application No. 2305 of 1992 was ordered to be heard alongwith this matter and the said petition is allowed by this Court [Coram : A.M. Kapadia, J.] vide judgment dated 10th November, 2000.

2.2. However, at the time of hearing of this petition, it was jointly and rightly submitted by Mr. Pathak learned advocate for the petitioners and Mr. N.D. Gohil learned A.G.P. for the State that by virtue of the Government Resolution dated 17th, October 1988 as per item No. 3, Government has decided to accord all benefits to those rojamdars who have completed 10 years of service and to put them in the pay scale of Rs.750-940/- including Dearness Allowance, HRA and after retirement benefits and, therefore, now no further orders are required to be passed. However, according to Mr. Pathak, only one clarification is required to be made to the effect that the Government shall designate them as permanent employees instead of kayami Rojamdars. In support of the aforesaid submission, he has placed reliance on two judgments of this Courts, (i) rendered in Special Civil Application No. 5757 of 1988 dated October 23, 1999 [Coram : H.K. Rathod, J.] and (ii) in Special Civil Application Nos.28. 64, 65, 67, 68 and 252 of 1988 dated April 6, 2000 [Coram : P.K. Sarkar, J.] and supplied simple copy of the above referred to two judgments, which are ordered to be retained on record.

3.0. Having considered the submissions of the respective parties and having gone through the aforesaid judgments as well as the Government Resolution dated 17th October, 1988, I am of the opinion that as per the said Resolution, Government has decided to accord all the benefits to those rojamdars who have completed ten years of service entitling them to pay scale of Rs.750-940/- including DA, HRA and after retirement benefits and, therefore, there is no justification in not treating them

as permanent employees. I am, therefore, of the opinion that the Government should treat those rojamdars who have completed 10 years of service as permanent employees instead of kayami rojamdars and grant all consequential and incidental benefits to them on completion of ten years of service as per the resolution dated 17th October, 1988.

3.1. So far as other prayers made in the petition are concerned, Mr. Pathak learned advocate for the petitioners does not press the same in view of the aforesaid observations and directions.

4.0. For the foregoing reasons, the petition succeeds in part and accordingly, it is partly allowed The respondents are directed to treat those rojamdars who have completed 10 years of service as permanent employees instead of kayami rojamdars and grant all consequential and incidental benefits to them on completion of ten years of service as per the resolution dated 17th October, 1988. Rule is made absolute to the aforesaid extent only with no order as to costs.

[K.S. JHAVERI, J.]

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